IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	Confirmation No.: 5148
Stephen R. PALM	Art Unit: 2153
Appl. No.: 09/755,085	Examiner: Bates, Kevin T.
Filed: January 8, 2001	Atty. Docket No.: 1875.0030001
For: **Networked Audio Player Transport Protocol and Architecture**	

Reply Brief Under 37 C.F.R. § 41.41

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

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Sir:

Appellant filed a Brief on Appeal to the Board of Patent Appeals and Interferences for the above-captioned application on January 26, 2009, appealing the decision of the Examiner in the Final Office Action mailed August 22, 2008. The Examiner's Answer was mailed April 8, 2009. In reply to the Examiner's Answer, Appellant submits this Reply Brief under 37 C.F.R. § 41.41.

1. The combination of Abecassis, Day, and Roy does not teach or suggest each and every feature of claims 1, 7, 8, 14, and 16

Appellant maintains their position that the combination of Abecassis, Day, and Roy does not teach or suggest each and every feature of Appellant's independent claims 1, 7, 8, 14, and 16.

In the Examiner's Answer, the Examiner addressed Appellant's argument that the combination of Abecassis, Day, and Roy does not teach or suggest "authenticating said multimedia device prior to granting access to said plurality of multimedia clips" as recited in Appellant's independent claim 1. (Brief on Appeal, pages 10-13.) Specifically, the Examiner stated:

> The question of whether Roy teaches authorization or authentication is pure semantics, and not as important issue [*sic*] as the idea that Roy is teaching the same functionality as recited in the claim limitations

> (whether that action by the user device is permitted). This concept of semantics is demonstrated by the appellant in their own specification by stating that there media server authorizes multimedia devices.

(Examiner's Answer, page 17.) In other words, the Examiner appears to allege that "authenticating" as recited in the claims is identical to authorization as that term is used in the instant specification. Therefore, the Examiner concludes that the use of one term over the other (i.e., authenticating and authorizing) is nothing more than "semantics." (Examiner's Answer, page 17.) Appellant respectfully disagrees.

The plain meaning of the word authentication, as recited in the claims, cannot be ignored. "[T]he words of the claim must be given their plain meaning unless applicant has provided a clear definition in the specification. *In re Zletz*, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989)" (MPEP § 2111.01). The specification does not provide or impart any new meaning to the term authentication. Rather, the term authentication is used in the instant specification in the context of its plain and ordinary meaning: to establish whether someone or something is, in fact, who or what it is declared to be.

In contrast, authorization decides or determines what a user or device can do (e.g., being granted a requested type of access to a given resource). Therefore, the Examiner's apparent contention that authentication and authorization are, in general, interchangeable words and that the use of one word over the other is nothing more than "semantics," is inconsistent with the plain and ordinary meaning of these terms.

Nevertheless, the Examiner alleges that the use of the term authorization, within portions of the instant specification cited to by Appellant in support of the above mentioned feature of the claims, implies that authorization and authentication are semantically equivalent. (Examiner's Answer, page 16.) The Examiner specifically

appears to rely on page 16, paragraph [0080] of the instant specification. (*Id.*) Paragraph [0080] of the instant specification discloses:

> In some cases, and to protect content from unauthorized access, the content provider should be able to limit access to its media server 115 repository only to ***authorized*** multimedia devices. (Emphasis added.)

The Examiner, in regard to paragraph [0080] of the instant specification, states that "appellant uses the idea of 'authorizing' the multimedia device ***rather than*** 'authenticating' the multimedia device" (Examiner's Answer, page 16) (emphasis added). Appellant respectfully submits that Examiner has relied solely on paragraph [0080] of the instant specification, but ignored other parts of the specification. The mere use of the term authorized in one instance of Appellant's specification does not imply that the term authorized has been used in place of, or "***rather than,***" the term authenticating. (*Id.*)

In fact, Appellant's specification uses both terms "authorized" and "authentication." These terms are not mutually exclusive. However, authentication and authorization are two distinct concepts. A multimedia device that is authenticated may be considered authorized, but the fact that a device is authorized does ***not*** mean the device has been authenticated. Appellant's claim 1 recites ***authenticating*** a multimedia device; the art simply does not teach or suggest authenticating a multimedia device.

Appellant provided an analogy in the Brief on Appeal to an amusement park to explain the different meanings of the two terms. Amusement parks often require passengers to be a certain, minimum height before authorizing passengers to board rides. Typically, a sign designating the minimum, required height is used for each ride; if a potential rider is taller than the minimum requirement designated by the sign, the rider is authorized to board the ride. The amusement parks, however, do not find out who the individuals are that are attempting to board the rides; that is, the amusement parks do not

authenticate each rider prior to boarding a ride. Consequently, authorization in this exemplary instance is provided without authentication.

The above described analogy may be modified to incorporate authentication. For example, an amusement park may require all patrons to carry a park issued photo ID to board rides. The part issued photo ID may, e.g., only be provided after the patron provides a valid driver's license. In other words, the patron has registered himself with the amusement park. Before authorizing a patron to board a ride, an operator of the ride may authenticate the patron via their park issued ID. Although authentication may be provided in conjunction with authorization, this example further makes clear that authentication is by no means necessary and, therefore, not inherently present where authorization exists.

Appellant's specification clearly describes authentication, including the use of a registration process and/or authentication certificates that allow a multimedia device to be authenticated:

> In one embodiment, multimedia device 105 is only allowed access to the media server 115 after completing a registration phase (e.g. over the phone, email or from the WWW). After the device has been properly registered, the IP address of the device, the IP of the firewall protecting the local home communications network, or the subnet mask of that network should be added to the access list of the media service.
>
> In an alternative embodiment, secured access using HTTPS, using an authorized client-based authentication certificate is used.
>
> Still further, SDMI based approaches [SDMI] or any other proprietary authentication method implemented in the device, which is recognized by the content provider's server as an authorized device could be used.

(Specification, paragraph [0081] to [0083].) The Examiner has conveniently ignored the fact that Appellant's specification clearly supports authentication, that the term authentication as used in Appellant's claims must be given its plain and ordinary meaning

(which is consistent with its use in the specification), and the art applied by the Examiner does not teach authentication.

For at least the above reasons, the claim term "authenticating" is not semantically equivalent to the term authorization as the Examiner alleges. Thus, even if Roy teaches authorization of a device, Roy still fails to teach or suggest "authenticating said multimedia device prior to granting access to said plurality of multimedia clips" as recited in Appellant's independent claim 1. (Brief on Appeal, pages 10-13.)

Moreover, as the Examiner correctly points out on page 16 of the Examiner's Answer, Roy teaches a user device that "sends start-up signals to [a] multimedia bridge..., including the identity of the user device." (Roy, col. 4, lines 40-43.) However, even if the multimedia bridge of Roy receives the identity of the device, Roy does not teach or suggest that the multimedia bridge authenticates that identity. Authentication, as noted above, is performed to establish whether someone or something is, in fact, who or what it is declared to be. The simple declaration of an identity by a device in Roy does not necessarily suggest that authentication of the identity is performed.

Abecassis and Day do not cure the deficiencies of Roy noted above. (Brief on Appeal, pages 10-13.) Therefore, claim 1 is patentable over the combination of Abecassis, Day, and Roy for at least the reasons provided above, as well as those set forth in Appellant's Brief on Appeal.

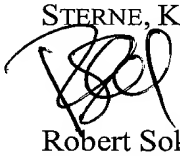
Claims 7, 8, 14, and 16 recite features similar to the distinguishing feature of claim 1 noted above. Therefore, claims 7, 8, 14, and 16 are further patentable over the combination of Abecassis, Day, and Roy for at least the same reasons.

2. Conclusion

In light of the arguments above, as well as those set forth in Appellant's Brief on Appeal filed January 26, 2009, Appellant respectfully submits that the rejection of claims 1-10, 12-14, 16-18 and 20-23 under 35 U.S.C. § 103(a) is improper and should be reversed.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.



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